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County of Stanislaus
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF STANISLAUS

DANNY LEE WATTLE, an individual, CRISTINA BRAVO, an individual, on behalf of themselves and all others similarly situated, Plaintiff, vs. PLM OPERATIONS LLC, a Delaware limited liability company. TROPICALE FOODS, LLC, a California limited liability company, f/k/a TROPICALE FOODS, INC., TRINITY PERSONNEL, INC., a California corporation; and DOES 1 through 25, inclusive. Defendants.	Case No. CV-22-001613 Assigned: Judge John D. Freeland, Dept. 23 **FIRST AMENDED CLASS ACTION COMPLAINT FOR:** **(1) Unpaid Wages** **(2) Meal Period Violations** **(3) Rest Break Violations** **(4) Unreimbursed Expenses** **(5) Failure To Provide Accurate Wage Statements** **(6) Failure To Pay All Wages Due Upon Separation** **(7) Unlawful Or Unfair Business Practices** **(8) Representative Action Under PAGA** Original Complaint Filed: April 12, 2022

Plaintiffs Danny Lee Wattle ("Wattle") and Cristina Bravo ("Bravo") (collectively, "Plaintiffs") bring this action on behalf of themselves and others similarly situated, and on information and belief allege as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs are individuals and residents of Stanislaus County, California.

2. Defendant PLM Operations, LLC ("PLM") and its manager or member, Defendant Tropicale Foods, LLC, are registered with the California Secretary of State as "Ice Cream Novelties" producers. Defendant Tropicale Foods, LLC acquired PLM.

3. Defendant Trinity Personnel, Inc. ("Trinity") is a California corporation.

4. Defendant Tropicale Foods, LLC, f/k/a Tropicale Foods, Inc. and dba La Michoacana is a California limited liability company.

5. Tropicale Foods, LLC, f/k/a Tropicale Foods, Inc. and PLM shall be collectively referred to herein as "Tropicale Foods." Tropicale Foods and Trinity shall be collectively referred to herein as the "Company."

6. Plaintiffs worked at Tropicale Foods as non-exempt hourly employees. By way of this Complaint, Plaintiffs seek unpaid wages, statutory penalties, and other monetary relief that render this matter an "unlimited" civil case within the meaning of California law.

7. Plaintiffs have exhausted their administrative remedies under the Private Attorneys General Act of 2004 ("PAGA"), and this amended complaint asserts civil penalty claims under PAGA.

8. The true names and capacities of the Doe Defendants (Does 1 through 25, inclusive) are unknown to Plaintiffs at this time and Plaintiffs are informed and believe that they are in some way liable for the illegal conduct, injury, and damages alleged herein. The Doe Defendants are believed to be co-employers, joint-employers, responsible executives, or otherwise liable for the conduct complained of herein, whether because of alter-ego status, agency principles, aider and abettor (or co-conspirator) status, statutorily-imposed responsibility (*e.g.*, Labor Code sections 558.1 and 2810.3), or otherwise. Whenever and wherever reference is made in this Complaint to any act or failure to act by a Defendant or

co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendant, including the Doe Defendants, acting individually, jointly and severally.

9. The Court has personal jurisdiction over Trinity because it is a citizen of this State, does business in this State, and otherwise has minimum contacts with this State. The Court has personal jurisdiction over Tropicale Foods because it is a citizen of this State, does business in this State, and otherwise has minimum contacts with this State. The Court has personal jurisdiction over Plaintiffs because they are residents of California and have sufficient minimum contacts with this State. Venue is proper in Stanislaus County inasmuch one or more current or former employees of the Class described herein (including Plaintiffs) are residents of Stanislaus County, and the alleged unlawful conduct and/or its effect occurred, in whole or in part, in this County.

10. This Complaint and all claims herein invoke all forms of applicable tolling, including, without limitation, the tolling provided by the Judicial Council's emergency rules.

CLASS ALLEGATIONS

11. Plaintiffs bring this action pursuant to California Code of Civil Procedure section 382, on behalf of themselves and the Class described below. The Class is comprised of and defined as:

> Class: All current and former non-exempt employees who worked at a Tropicale Foods location in California as a non-exempt employee at any time from April 12, 2018, until the date of certification (hereafter, the "Class Period").

12. The Class includes (i) non-exempt employees who, during the Class Period, are or were on the payroll of PLM or Tropicale Foods, LLC, f/k/a Tropicale Foods, Inc. (such as Wattle), and (ii) temporary employees who, during the Class Period, are or were supplied by temporary employment agencies or staffing agencies to work at Tropicale Foods (such as Bravo).

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13. There exists a well-defined community of interest among the Class, and the Class is readily ascertainable for the following reasons:

(a) The members of the Class are so numerous that joinder of all members in a single action would not be feasible or practical. Plaintiffs allege on information and belief that the members of the Class exceed one hundred (100) persons.

(b) Plaintiffs' claims are typical of the claims of the rest of the Class, and Plaintiffs will fairly and adequately represent the interests of the Class.

(c) Common issues of fact or law predominate in this action over any purported individual issues. Specifically, the following common issues of fact or law predominate and make this class action superior to individual actions:

(i) Whether Plaintiffs and the rest of the Class are entitled to recover unpaid wages, damages, penalties, injunctive relief or other equitable relief on the grounds that the Company has utilized uniform policies and/or practices that violated California laws and regulations and caused Plaintiffs and the rest of the Class to suffer the same or similar injuries;

(ii) Whether the Company's policy or practice of having employees don and/or doff off-the-clock violated California law;

(iii) Whether the Company's policy or practice of failing to pay for all hours worked have caused Plaintiffs and members of the Class to suffer lost wages under California law;

(iv) Whether the Company has paid meal period premiums, sick leave, and overtime at the regular rate required by California law;

(v) Whether the Company has failed to provide Plaintiffs and Class members with legally-compliant meal periods as required by California law;

(vi) Whether the Company has failed to provide Plaintiffs and Class members with the requisite meal period premiums for meal period violations as required by California law;

(vii) Whether the Company failed to provide Plaintiffs and Class members with legally-compliant rest periods as required by California law;

(viii) Whether the Company failed to provide Plaintiffs and Class members with the requisite rest period premiums for rest period violations as required by California law;

(ix) Whether the Company failed to reimburse Plaintiffs and Class members for the work-related expenses they incurred as required by California law;

(x) Whether the Company failed to issue legally-compliant wage statements to Plaintiffs and Class members;

(xi) Whether the Company failed to pay all wages due Plaintiffs and separated Class members as required by California law; and

(xii) Whether the Company failed to keep accurate records as required by law;

(xiii) Whether the Company's practices have constituted unlawful or unfair practices under Business and Professions Code sections 17200 *et seq*.

(d) Plaintiffs reserve the right under all applicable law, including Rule 3.765(b) of the California Rules of Court, to further divide the Class into subclasses or seek certification on particular issues.

14. The issues which may be jointly tried in this action, when compared to any purported individual issues, are so numerous and/or substantial that the maintenance of a class action would be advantageous to the judicial process and the litigants. A class action is superior to other means for a fair and efficient adjudication of this controversy.

BACKGROUND

15. Tropicale Foods produces frozen sorbets and fruit cups, including paletas, Coolstix (also known as bolis), and vasitos (cups). Trinity is a staffing company in California, and one of several staffing agencies utilized by Tropicale Foods.

16. Tropicale Foods, LLC was formerly a corporation known as "Tropicale Foods, Inc." and converted to its LLC form in or about 2019. Any references to Tropicale Foods in this Complaint also include corporate predecessors such as PLM and Tropicale Foods, Inc.

and any future successors.

17. Wattle worked as a maintenance mechanic at Tropicale Foods from December 10, 2017 to the present. Wattle's job duties have included repairs and maintenance of ice cream machines. Wattle was on the payroll of Tropicale Foods.

18. Bravo worked as a production employee at Tropicale Foods at numerous points in time. Her job duties have included packaging popsicles. Bravo was placed by Trinity to work at Tropicale Foods in California.

19. Bravo was both an employee of Trinity and Tropicale Foods. Under any applicable standard, Tropicale Foods qualifies as an employer or joint-employer of Bravo and Class members who were supplied by any temporary staffing agency. (See, e.g., *Martinez v. Combs* (2010) 49 Cal.4th 35, 64 [setting forth three different standards].)

20. Among other things, Tropicale Foods had the power to exercise, and exercised, sufficient control over the wages, hours, and/or working conditions of Class members (Bravo included) to be deemed an employer or joint-employer of them. Indeed, at Tropicale Foods, at all relevant times, there were no supervisors from Trinity (or other staffing agencies) present. Among other things, Tropicale Foods exercised control over the schedule of employees, their required protective gear, when they had to don and doff their protective gear, and when and if they could take meal and rest periods. Tropicale Foods also supervised the day-to-day work activities of supplied employees, and caused Labor Code violations herein asserted. Tropicale Foods also suffered and permitted Bravo and the Class members to work at its facilities (with no supervisors of Trinity or other staffing agencies present) with knowledge of the underlying illegal circumstances and failed to prevent them from occurring.

21. Moreover, Tropicale Foods is independently liable under Labor Code section 2810.3 for the wage violations herein asserted, as it regularly uses staffing agencies, including (without limitation) Trinity, to provide workers for activities within the usual course of Tropicale Foods' business, and Tropicale Foods qualifies as a "client employer" under the statute.

22. On April 12, 2022, in Stanislaus County Superior Court, Wattle commenced this wage-and-hour class and PAGA action (assigned Case No. CV-22-001613) against Tropicale Foods (the "*Wattle* Action").

23. On September 26, 2022, in Stanislaus County Superior Court, Bravo commenced a separate wage-and-hour class action (assigned Case No. CV-22-004342) against Tropicale Foods and Trinity, and a PAGA cause of action was added to that case through an amended pleading ("*Bravo* Action").

24. The Stanislaus County Superior Court has deemed the *Wattle* Action and the *Bravo* Action related.

25. The purpose and effect of this pleading is to consolidate all the allegations in the *Bravo* Action and the *Wattle* Action together under one pleading.

26. Again, as used in this pleading, the term the "Company" refers collectively to Tropicale Foods and Trinity. During the Class Period, the Company maintained policies and practices governing the working conditions of, and payment of wages to, Plaintiffs and the rest of the Class. As alleged below, these policies and practices violated California's labor laws and constituted unlawful or unfair business practices under Business and Professions Code sections 17200 *et seq*.

27. Specifically, during the Class Period, the Company committed various violations of California's Labor Code and the applicable Wage Order, including the following (which continue to persist):

(a) Off-The-Clock Work. During the Class Period, the Company has had a policy or practice of having employees don and/or doff their protective gear (including PPE) off-the-clock.

(b) Unpaid Overtime/Double-Time. During the Class Period, the Company failed to pay for all hours worked and/or at the correct rate of pay, resulting in unpaid overtime and/or double-time.

(c) Regular Rate Errors. During the Class Period, the Company failed to pay meal period premiums, sick leave payouts, and overtime compensation at the regular rate required by law.

(d) Meal Period & Rest Break Violations. The Company has failed to provide legally-compliant meal periods and rest breaks to Plaintiffs and the rest of the Class. The Company runs continuous operations, and the Company has not established or provided employees with a sufficient break system in the busy environment in which they work, causing repeated meal period and rest break violations. The Company has failed to pay for meal and rest period premiums (at all or at the correct rate).

(e) Failure To Reimburse For Expenses. The Company has failed to reimburse Plaintiffs and the rest of the Class for work-related expenses they incurred including, without limitation, protective gear such as work boots and work tools.

(f) Inaccurate Wage Statements. The Company failed to provide accurate wage statements to Plaintiffs and the rest of the Class. The Company failed to issue accurate wage statements to Plaintiffs and the rest of the Class as a consequence of the: (i) the off-the-clock work and failure to pay for all hours worked, (ii) failure to pay overtime and double-time in all the scenarios in which such pay is owed and/or inaccurate calculation of the regular rate, (iii) failure to pay at all, or at the proper rate, meal and rest period premiums, and (iv) compensable activities performed or compensable time spent during unpaid meal periods. Moreover, among other things, the Company's wage statements have (v) failed to specify the correct name and identifying information of the employee and link that correct name and identifying information to the correct corresponding amount of wages that employee earned during the pay period, and (vi) failed to accurately list the correct name and address of the employer, in violation of Labor Code section 226(8).

(g) Failure To Pay All Wages Due Upon Separation From Employment. The Company has failed to pay, in the final paychecks (or direct deposits) issued to them, all wages due to separated employees in the Class. Specifically, the Company failed to pay all wages due separated Class members as a consequence of the: (i) the off-the-clock work, and failure to pay for all hours worked, (ii) failure to pay overtime and double-time in all the scenarios in which such pay is owed and/or inaccurate calculation of the regular rate, (iii) failure to pay at all, or at the proper rate, meal and rest period premiums, and (iv) compensable activities performed or compensable time spent during unpaid meal periods. The deficiencies in final pay were "willful" within the meaning of Labor Code section 203.

(h) Recordkeeping Violations. The Company was required to keep accurate records showing the names and addresses of its employees, the hours worked by, and wages paid, to its employees; as well as accurate itemized wage statements; however, the Company failed to do so in violation of its recordkeeping obligations.

FIRST CAUSE OF ACTION

Unpaid Wages

(Against All Defendants And Does 1 Through 25, Inclusive)

28. Plaintiffs re-allege and incorporate by reference herein the allegations set forth in Paragraphs 1 through 27 inclusive.

29. At all relevant times, Plaintiffs and Class members were non-exempt employees of the Company entitled to the full protections of the Labor Code and of the Wage Orders.

30. Labor Code section 1198 makes it unlawful for an employer to employ any person under conditions of employment that violate the Wage Orders.

31. Section 2(K) of the IWC Wage Orders define "hours worked" as the "time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

32. Labor Code sections 1194 and 1197, and Section 4 of the IWC Wage Orders, require employers to pay their non-exempt employees at least the California minimum wage for each hour worked. (See also Labor Code, § 1182.12.)

33. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders, require employers to pay overtime wages to their non-exempt employees at no less than one and one-half times their regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in excess of forty hours in one workweek, and for the first eight hours worked on a seventh consecutive workday.

34. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders, also require employers to pay overtime wages to their non-exempt employees at no less than two times their regular rates of pay (*i.e.*, double-time) for all hours worked in excess of twelve hours in one workday, and for all hours worked in excess of eight hours on a seventh consecutive workday.

35. Labor Code sections 204 and 218 require employers to pay the earned wages of their employees, including straight-time wages, on a timely and periodic basis.

36. At all relevant times, the Company failed to pay Plaintiffs and other Class members at least the California minimum wage for each hour worked, failed to pay them straight-time pay for all hours worked, and failed to pay them all the overtime (including double-time) wages due to them, by maintaining policies and/or practices that failed to compensate employees for all hours worked. Defendants did not pay employees overtime premiums for all of the hours they worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a week.

37. Among other things, before starting their shift, Class members have been required to retrieve and don their Company-required protective gear and sanitary equipment (including, without limitation, boots, robes/aprons, goggles/safety glasses, and hairnets) before they have clocked in to work. This gear and equipment was regarded by the Company as part of an employee's "required uniform." At all material times, the policy at Tropicale Foods and/or its practice has been for Class members to be donned in their protective gear and ready-to-work before they clock in. Similarly, on information and belief, Class members had to doff their protective gear and sanitary equipment off-the-clock and engage in other forms of off-the-clock compensable work, including (without limitation) during unpaid meal period time. As a result of company-wide understaffing of its facilities, Plaintiffs and Class members were not always permitted and authorized to take uninterrupted 30-minute meal periods during shifts to which they were entitled to receive a meal period. For example, Plaintiffs regularly worked through meal periods and had meal periods interrupted by supervisors and by work to meet expected targets.

38. Defendants knew or should have known that, as a result of their policies and practices, Plaintiffs and Class members were performing some of their assigned duties off-the-clock and/or during unpaid meal periods, and were suffered or permitted to perform work for which they were not paid.

39. The Company also committed several regular rate errors, leading to unpaid wages. Meal period premiums, when paid, did not factor in compensatory items besides hourly pay (such as incentive compensation, shift differentials, and bonuses), resulting in underpaid meal period premiums. Moreover, sick leave payouts were not paid at the regular rate required by law (Labor Code, § 246(l)(2)), resulting in underpaid sick leave. Sick leave payouts did not factor in compensatory items besides hourly pay (such as incentive compensation and shift differentials) and were paid at a lower rate than required by law. Furthermore, bonuses were not properly factored into the regular rate for purposes of calculating overtime, resulting in underpaid overtime compensation.

40. Plaintiffs and Class members are entitled to recover the unpaid balance of the full amount of unpaid wages owed, including the California minimum wage, straight-time, overtime, and double-time, including interest thereon, as well as reasonable attorney's fees and costs of suit pursuant to Labor section 1194. Furthermore, under Labor Code section 1194.2, Plaintiff and Class members are entitled to recover liquidated damages in an amount equal to the California minimum wages unlawfully unpaid and interest thereon. On information and belief, Plaintiffs also allege that the Company intentionally failed to pay the minimum wage due Plaintiffs and Class members, and, therefore, Plaintiffs and Class members are entitled to penalties pursuant to Labor Code section 1197.1. Plaintiffs and Class members are entitled to recover all damages, penalties and other remedies available for a violation of Labor Code section 1197 and the General Minimum Wage Order.

SECOND CAUSE OF ACTION

Meal Period Violations

(Against All Defendants And Does 1 Through 25, Inclusive)

41. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 40

inclusive as though fully set forth herein.

42. Under California law, all non-exempt employees who work more than five (5) hours in a day are entitled to take a full 30-minute duty-free meal period. Any meal period must be started no later than after five (5) hours of work. (Labor Code, § 512, subd. (a); IWC Wage Orders § 11.)

43. Under California law, all non-exempt employees who work more than ten (10) hours in a day are entitled to take a second duty-free meal period of thirty (30) minutes. Any second meal period must be started no later than after ten (10) hours of work. (Labor Code, § 512, subd. (a); IWC Wage Orders, § 11.)

44. Under California law, employers are forbidden from requiring employees to work during a meal period mandated pursuant to California statutory law or mandated by the IWC Wage Orders. (Labor Code, § 226.7(a).)

45. Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a meal period "in accordance with" California statutory law or the IWC Wage Orders. (Labor Code, § 226.7(c).)

46. Plaintiffs and the rest of the Class were non-exempt employees who worked more than (5) hours in a shift for the Company and were entitled to meal periods that conformed with California law.

47. At all relevant times, Plaintiffs and other Class members did not waive their legally-mandated meal periods.

48. At all relevant times, the Company failed to provide Plaintiffs and other Class members a timely, uncontrolled, duty-free uninterrupted meal period of at least thirty (30) minutes when Plaintiffs and other Class members worked more than five (5) hours.

49. At all relevant times, the Company failed to provide Plaintiffs and other Class members a second timely, uncontrolled, duty-free uninterrupted meal period of at least thirty (30) minutes when Plaintiffs and other Class members worked more than ten (10) hours. Plaintiffs worked 10 or more hour shifts and, at times, up to 12 or more hours in a shift

without being permitted or authorized to take a second 30-minute meal period.

50. At all relevant times, the Company failed to pay Plaintiffs and/or other Class members all the required meal period premium pay to which they were entitled as a result of all the meal period violations.

51. The Company runs continuous operations, and has not established or provided employees with a sufficient break system in the busy environment in which they work, causing employees to routinely take delayed or shortened meal periods or forgo them altogether. Because of the continuous production operations, employees frequently have to wait to be relieved before they can depart from their positions for a meal period, leading to (among other things) late meal periods. Moreover, in light of the Company's continuous operations, mechanics/technicians routinely have their meal periods interrupted to address mechanical issues.

52. At all relevant times herein, Defendants had, and continue to have, a company-wide policy and/or practice of understaffing their locations while simultaneously assigning demanding workloads, which had the combined effect of preventing Plaintiffs and Class members from taking all timely, uninterrupted meal periods to which they were entitled. As a result of Defendants' policies and/or practices, Plaintiffs and Class members had to work through some or all of their meal periods, have their meal periods interrupted to return to work, and/or wait extended periods of time before taking meal periods. Because Defendants understaff their operations, Plaintiffs and their co-workers are often unable to take their lunch breaks by the fifth hour.

53. Furthermore, because of the understaffing and demanding workloads, Plaintiffs are or were often interrupted during meal periods by requests from management to perform work. Although Defendants pay some meal period premiums at times for missed meal periods, Plaintiffs are informed and believe that they are paid at their hourly rate as opposed to their regular rate of pay as required by *Ferra v. Loews Hollywood Hotel, LLC,* 280 Cal. Rptr. 3d 783, 798 (2021).

54. Plaintiffs are also informed and believe that Defendants engaged in a

systematic, company-wide practice and/or policy of either not paying meal period premiums, or failing to pay the premium at the regular rate of pay, for Plaintiffs and class members, regardless of whether they were able to take a compliant meal break, in violation of the applicable IWC Wage Order and Labor Code sections 226.7 and 512 (a). As a result, Defendants failed to provide Plaintiffs and Class members compliant meal periods in violation of California Labor Code sections 226.7 and 512 and failed to pay the full meal period premiums due.

55. The Company did not pay Plaintiffs or Class members the one hour of premium pay (at all or at the correct rate) for all the first and second meal period violations to which they were entitled.

56. The Company's non-provision of compliant meal periods, and the Company's non-payment of the requisite meal period premiums, violated and is actionable under Labor Code section 512, subdivision (a), and Labor Code sections 226.7, subdivisions (b) & (c).

57. As a result of the Company's violation of California's meal period rules, Plaintiffs and the rest of the Class are entitled to, among other things, one (1) hour of pay at the employee's regular rate of pay for each workday in which a meal period violation occurred.

THIRD CAUSE OF ACTION

Rest Break Violations

(Against All Defendants And Does 1 Through 25, Inclusive)

58. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 57 inclusive as though fully set forth herein.

59. Under California law, employers must authorize and permit all non-exempt employees to take a "net" 10-minute rest period for every four (4) hours worked, or major fraction thereof. (IWC Wage Orders, § 12(A).) More specifically, employers must authorize and permit non-exempt employees to take one 10-minute rest break for shifts from three and one-half (3 ½) hours to six (6) hours in length, two 10-minute rest breaks for shifts of more than six (6) hours up to ten (10) hours in length, three 10-minute rest breaks for shifts of

more than ten (10) hours up to fourteen (14) hours in length, and so on. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.) In terms of the timing of rest breaks, employers must authorize and permit the taking of rest breaks "in the middle of each work period." (IWC Wage Orders, § 12(A).)

60. Employers must provide employees with "suitable resting facilities" (Wage Orders, §13(B)) that are "away from the work station" (DLSE Enforcement Manual, § 45.3.3). An employee's rest period starts from the moment the employee can reach an area of rest away from the work station and be free from employer control. (*Vaquero v. Stoneledge Furniture*, *LLC* (2017) 9 Cal.App.5th 98, 112 [a rest period "begins when the employee reaches an area away from the work station that is appropriate for rest"]; *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 273 ["California law requires employers to relieve their employee of all work-related duties and employer control during 10-minute rest periods"].)

61. Under California law, it is illegal for an employer to require an employee to work during a rest period that is mandated by California statutory law or an IWC Wage Order. (Labor Code, § 226.7(b).)

62. Under California law, employers must provide an employee with an additional one (1) hour of pay for each workday that an employee is not provided with a rest period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

63. At all relevant times, Plaintiffs and the rest of the Class worked 3.5 hours or more in a shift for the Company and were entitled to rest breaks that conformed with California law.

64. At all relevant times, Plaintiffs and the rest of the Class did not waive their legally-mandated rest breaks.

65. At all relevant times, the Company failed to provide Plaintiffs and the rest of Class members with timely, uncontrolled, uninterrupted rest periods of at least ten (10) minutes for every four (4) hours worked, or major fraction thereof. The Company failed to provide Plaintiffs and the Class members with first, second, and third rest breaks that

complied with California law.

66. At all relevant times, the Company failed to pay Plaintiffs or other members of the Class all the required rest period premium pay for all the rest period violations.

67. Plaintiffs and Class members were routinely denied legally-compliant rest periods.

68. The Company runs continuous operations, and the Company has not established or provided employees with a sufficient break system in the busy environment in which they work, causing employees to routinely take delayed or shortened rest periods or forgo them altogether. Because of the continuous production operations, employees frequently have to wait to be relieved before they can depart from their positions for a rest period, leading to (among other things) late rest periods. In addition, employees must spent part of their rest period time donning and doffing their protective and sanitary equipment, resulting in less than a "net" 10 minutes of rest. With respect to mechanics/technicians, given the continuous operations and the constant need to keep machines and equipment functioning, mechanics routinely have their rest periods interrupted, delayed, or denied as they address mechanical issues.

69. The Company did not pay Plaintiffs or other Class members the one hour of premium pay (at all or at the correct rate) for rest period violations to which they were entitled.

70. The Company's non-provision of compliant rest periods, and the Company's non-payment of the requisite rest period premiums, violated and is actionable under Labor Code sections 226.7 subdivisions (b) & (c).

71. As a result of the Company's violation of California's rest period rules, Plaintiffs and the rest of the Class are entitled to, among other things, one (1) hour of pay at the employee's regular rate of pay for each workday in which a rest period violation occurred.

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FOURTH CAUSE OF ACTION

Unreimbursed Expenses

(Against All Defendants And Does 1 Through 25, Inclusive)

72. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 71 inclusive as though fully set forth herein.

73. At all relevant times, Labor Code section 2802 required and continues to require employers to fully reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer. At all material times, the Company failed to reimburse Plaintiffs and Class members for all their reimbursable expenses.

74. Among other things, Plaintiffs and other Class members were required by the Company to purchase protective gear for work, including (without limitation) work boots without reimbursement.

75. In addition, Class Members have been required by Defendants to purchase tools, and in fact did purchase tools in order to perform their duties, without reimbursement.

76. Technicians/mechanics at Tropicale Foods' facilities are required to supply most of their own tools, without reimbursement. The only tools provided by Defendants at the facilities where Plaintiffs worked are grinders, a drill press, a press machine to press bearings, and some power tools. Otherwise, because Defendants fail to supply employees with the necessary tools at their work locations, all tool-using employees employed by Defendants are required to supply their own tools to perform their job duties. As such, technicians and mechanics are required to incur tool expenditures, which Defendants have not reimbursed.

77. The value of the tools Wattle uses on the job for Defendants cost him about $3,000, and cost of his toolbox was about $700. Wattle was not reimbursed for these expenses. When Wattle first started work for Defendants, he already owned about $1,000 worth of tools that he could use on the job. In the last four years, he has purchased about $2,000 worth of tools for his job. Every mechanic who works for Defendants must supply

their own personal toolbox with their own set of tools, and they are not reimbursed.

78. Defendants' practice of failing to reimburse non-double minimum wage-earning employees for the purchase of their hand tools and equipment is violation of Labor Code § 2802.

79. In addition to other appropriate relief, Plaintiffs and other Class members are entitled to full reimbursement of all expenses owed, plus interest, attorney's fees and costs, as provided for in Labor Code section 2802.

FIFTH CAUSE OF ACTION

Failure To Provide Accurate Wage Statements

(Against All Defendants And Does 1 Through 25, Inclusive)

80. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 79 as though fully set forth herein.

81. Labor Code section 226, subdivision (a), requires that employers (such as the Company) furnish to their employees, semi-monthly or at the time of each payment of wages, an accurate itemized statement in writing showing the "(1) gross wages earned, (2) total hours worked by the employee …, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, …, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, … , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee[.]"

82. At all relevant times, Labor Code section 226(a) applied to the Company's employment of Plaintiffs and the rest of the Class, and required that the Company issue to employees a single comprehensive accurate wage statement for each of their pay periods.

83. At all relevant times, the Company knowingly and intentionally failed to provide Plaintiffs and the rest of the Class with accurate itemized wage statements as

required by Labor Code section 226.

84. The Company's wage statements have failed to accurately display the information required by Labor Code section 226.

85. As a result of the off-the-clock work, regular rate errors, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or compensable time spent during unpaid meal periods, the Company failed to provide Plaintiffs and Class members with accurate wage statements that accurately reflected their total hours worked (violating Labor Code § 226(a)(2)), their gross wages earned (violating Labor Code § 226(a)(1)), their net wages earned (violating Labor Code § 226(a)(5)), and their applicable rates of pay and hours worked at those rates (violating Labor Code § 226(a)(9)).

86. In addition, the Company's wage statements have failed to specify the correct name and identifying information of the employee and link that correct name and identifying information to the correct corresponding amount of wages that employee earned during the pay period. Among other things, wage statements were issued to Bravo with incorrect identifying information and days/hours missing from her pay, violating Labor Code section 226(a)(1), (2), (5), and (7). On information and belief, other Class members experienced the same errors.

87. On information and belief, the Company's wage statements fail to accurately list the correct name and address of the employer, in violation of Labor Code section 226(8). Among other things, the Company's wage statements fail to accurately reference the actual name of the employer entities and/or their correct address.

88. The Company's wage statements also list shift differentials without associated rates or hours, or list incorrect or rates for double-time and/or overtime. (Labor Code, § 226(a)(9).) The Company's wage statements also fail to specify or itemize the total hours worked. (Labor Code, § 226(a)(2).)

89. Plaintiffs and the rest of the Class have suffered the requisite injury as result of the Company's violations of Labor Code section 226, violations which precluded

Plaintiffs and Class members from being able to "promptly and easily" determine from the wage statements alone one or more the statutorily-required items of information. Moreover, Plaintiffs and Class members have been damaged by the wage statement violations.

90. Pursuant to Labor Code section 226 subdivision (e), Plaintiffs and the rest of the Class are entitled to recover statutory penalties, or damages, from the Company for the wage statement violations, as well as attorney's fees and costs.

<u>SIXTH CAUSE OF ACTION</u>

Failure To Pay All Wages Due Upon Separation

(Against All Defendants And Does 1 Through 25, Inclusive)

91. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 90 inclusive as though fully set forth herein.

92. At all relevant times, Labor Code sections 201 and 202 applied to the Company and imposed time requirements on tendering to a discharged or quitting employee their final wages. At all relevant times, Labor Code section 201 provided that, if an employer discharged an employee, the employee's wages earned and unpaid at the time of discharge are due and payable immediately. At all relevant times, Labor Code section 202 provided that, if an employee quits without giving 72 hours advance notice, all of his or her wages are due within 72 hours of quitting; if an employee quits and provides 72 hours or more of advance notice, all of his or her wages are due at the time of quitting.

93. The Company willfully failed to pay separated employees in the Class all their wages due in violation of Labor Code sections 201 and 202.

94. Among other things, as a result of the alleged off-the-clock work, regular rate errors, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or time spent during unpaid meal periods, and unreimbursed expenses, the Company did not provide separated employees with final pay that contained all wages due to them under California law.

95. At all relevant times, Labor Code section 203 provided that, if employers (such as the Company) willfully fail to pay any wages of an employee who is discharged or quits

in the time required by Labor Code section 201 or 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced, but the wages shall not continue for more than thirty (30) days. Accordingly, separated employees in the Class are entitled to receive statutory penalties up to a maximum of thirty (30) days, as well as attorney's fees and costs, under Labor Code section 203.

SEVENTH CAUSE OF ACTION

Unfair Or Unlawful Business Practices

(Against All Defendants And Does 1 Through 25, Inclusive)

96. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 95 inclusive as though fully set forth herein.

97. At all relevant times, the Company's practices, as alleged above, have been unfair, unlawful, and harmful to Plaintiffs, others similarly situated, and the general public. The Company's above-alleged practices constitute violations of Business and Professions Code sections 17200 *et seq*. A practice that violates any state law or regulation may constitute the basis of an unlawful business practice prohibited by Business and Professions Code sections 17200 *et seq*.

98. Among other things, the following practices of the Company constitute unfair or unlawful business practices:

a. The failure to pay all wages due as alleged above;

b. The failure to provide legally-compliant meal periods, and pay proper premiums for non-compliant meal periods as alleged above;

c. The failure to provide legally-compliant rest periods, and pay proper rest-period premiums for non-compliant rest periods as alleged above;

d. The failure to reimburse Plaintiffs and Class members for their work-related expenses as alleged above;

e. The Company's failure to provide accurate wage statements as alleged above;

f. The Company's failure to pay all the wages due separated employees as alleged above; and

g. The Company's failure to keep and maintain accurate records as required by law, including, inter alia, Labor Code section 1174(d), as alleged above and as further discussed below.

99. The Company has committed numerous recordkeeping maintenance and production obligations, all of which constitute unfair, deceptive, and/or unlawful business practices.

100. The Company has failed to pay all wages due during employment, in violation of Labor Code section 204. Class members were not paid all wages earned by the seventh calendar day following the close of their pay periods.

101. Trinity and Tropicale Foods have failed to maintain at all, for the duration required by law, and/or in a complete and accurate manner, personnel files of Class Members, records of the hours worked by Class members, copies of their wage statements, records of their hours worked, records of their paid sick days accrued and used, and records of their names and addresses. Consequently, Trinity and Tropicale Foods have both violated Labor Code section 1198.5(c), Labor Code section 226(a), Labor Code section 247.5(a), Labor Code section 1174(c) & (d), and Labor Code section 432.

102. Among other things, Trinity and Tropicale Foods failed to keep an accurate record of employee names, associated addresses, and hours worked (violating Labor Code sections 1174(c) and (d) and 247.4(c)). Wage statements (and a W-2) were issued to Bravo with incorrect identifying information and days/hours missing from her pay, violating Labor Code section 226(a). On information and belief, other Class members experienced the same errors.

103. The Company was required to keep, in a centralized location, three years' worth of accurate records showing the hours worked by, and wages paid, to its employees; however, the Company failed to do so in violation of Labor Code § 1174(d). The off-the-clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and

the compensable activities performed or compensable time spent during unpaid meal periods, rendered these records inaccurate and incomplete.

104. The Company was also required to maintain, for three years at a central location within the state of California, copies of wage statements that comply with Labor Code § 226(a). The Company's wage statements were inaccurate, deficient, or otherwise non-compliant with Labor Code § 226(a) as discussed above. Thus, the Company did not keep the records required by law.

105. Bravo, through counsel, requested in writing that Trinity and Tropicale Foods provide her copies of her personnel file, wage statements, time records, records showing her accrual and use of paid sick leave, and documents she signed in connection with her employment. Both Trinity and Tropicale Foods failed to provide any records in response to the requests, a failure which continues to persist. Consequently, Trinity and Tropicale Foods have both violated Labor Code section 1198.5(a), (b), and (c), Labor Code section 226 (b) and (c), Labor Code section 247.5(a), and Labor Code section 432

106. Pursuant to Business and Professions Code sections 17200 *et seq*., Plaintiffs and the rest of the Class are entitled to restitution of wages and other property held by the Company and/or other relief requiring the Company (and any other responsible parties) to pay all wages and other sums due to them and maintain and produce the records required by law. Plaintiffs and the rest of the Class lack an adequate remedy at law.

107. Plaintiffs meet the standing requirements for seeking relief pursuant to Business and Professions Code section 17203, in that they have suffered injury in fact and has lost money as a result of the Company's actions, as more fully set forth in this pleading.

EIGHT CAUSE OF ACTION

Representative Action Under PAGA

(Against All Defendants And Does 1 Through 25, Inclusive)

108. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 107 inclusive as though fully set forth herein.

109. Pursuant to Labor Code section 2699.3, Plaintiffs, on behalf of herself and all

other aggrieved employees, brings this action as a representative action under PAGA for civil penalties based on violations of the California Labor Code and the applicable IWC Wage Order(s).

110. Plaintiffs have timely and adequately exhausted their administrative remedies under PAGA. Wattle submitted his PAGA Notice to the LWDA on January 7, 2022 (incorporated herein in full by reference and attached hereto as **Exhibit A**), provided a copy of the same to Defendants, and waited the requisite 65-day time-period before filing the PAGA cause of action in court. Bravo submitted her PAGA Notice to the LWDA on July 29, 2022 (incorporated herein in full by reference and attached hereto as **Exhibit B)**, provided a copy of the same to the Company via certified mail, and waited the requisite 65-day time-period before filing the PAGA cause of action in court.

111. Pursuant to Labor Code section 2699.5, Plaintiffs assert this non-class representative action on behalf of themselves and other aggrieved employees for civil penalties for, among others, the following violations, all of which are alleged in Plaintiffs' PAGA Notices:

a. The failure to produce required records and the failure to maintain them;

b. Off-the-clock work;

c. Meal period violations;

d. Rest break violations;

e. Wage statement violations;

f. Unlawful recordkeeping;

g. The failure to pay all wages due upon separation from employment; and

h. Unreimbursed expenses;

112. Labor Code section 2699(f)(2), in turn, provides that the default civil penalties recoverable under PAGA for such violations are "one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200)

for each aggrieved employee per pay period for each subsequent violation," except where the Labor Code specifically provides for another penalty. In addition to or apart from the default civil penalties PAGA provides, Plaintiffs seek, through PAGA, any other civil penalties available under the Labor Code (including, without limitation, pursuant to Labor Code sections 208, 210, 226.3, 256, 558, 1199, and 1174.5) for the above-alleged violations of the Labor Code and/or applicable IWC Wage Order(s).

PRAYER

WHEREFORE, Plaintiffs request judgment as follows:

On The First Cause Of Action

1. For all recoverable damages and unpaid wages, including unpaid minimum wages, straight-time pay, overtime wages, and double-time wages;

2. For liquidated damages pursuant to Labor Code § 1194.2;

On The Second Cause Of Action

3. For premium pay for meal period violations under Labor Code § 226.7;

On The Third Cause Of Action

4. For premium pay for rest period violations under Labor Code § 226.7;

On The Fourth Cause Of Action

5. For the full reimbursement of expenses owed, including interest thereon, under Labor Code § 2802;

On The Fifth Cause Of Action

6. For statutory penalties under Labor Code § 226;

7. For actual damages incurred as a result of the wage statement violations, according to proof;

On The Sixth Cause of Action

8. For statutory penalties under Labor Code § 203, up to the statutory amount;

On The Seventh Cause Of Action

9. For restitution of all unpaid wages, straight-time, overtime, double-time, minimum wages, premium pay, and other monies withheld from Plaintiffs and the rest of

the Class together with the disgorgement of any profits received as a result of the Company's unlawful or unfair business practices;

10. For declaratory relief declaring that the Company has failed to maintain records required by law and any available injunctive relief to require compliance with recordkeeping obligations;

On The First Through Seventh Causes Of Action

11. For a certification of the action as a class action, and for entry of judgment in favor of the Class;

On The Eighth Cause Of Action

12. For all forms of relief and civil penalties recoverable under PAGA;

13. For judgment in favor of the aggrieved employees;

On All Causes Of Action

14. For attorneys' fees and costs pursuant to Civil Code § 1021.5, all provisions of the Labor Code that authorize attorney's fees and costs (including, e.g., Labor Code §§ 226, 203, 1194(a), 1194.3, 2802, 3287, 3289, and PAGA), the "common fund" theory, the "substantial benefit" theory, the "catalyst" theory, and/or any other applicable statutory provision, regulatory provision, theory or doctrine;

15. For prejudgment and postjudgment interest on all amounts owing, commencing from the date such amounts were due; and

16. For all such other relief as the Court deems just and proper.

Dated: 5/6/24

PIMENTEL LAW, P.C.

By: ______________________
YESENIA L. RODRIGUEZ
Attorneys for Plaintiff,
DANNY LEE WATTLE, on behalf of himself and all others similarly situated

Dated: 5/6/2024

SCHEPPACH BAUER PC

By: ______________________

JOHN M. SCHEPPACH
Attorneys for Plaintiff,
CRISTINA BRAVO, on behalf of herself and all others similarly situated

<u>DEMAND FOR JURY TRIAL</u>

Plaintiffs demand a trial by jury on all claims and causes of action so triable

Dated: 5/6/24

PIMENTEL LAW, P.C.

By: ______________________

YESENIA L. RODRIGUEZ
Attorneys for Plaintiff,
DANNY LEE WATTLE, on behalf of himself and all others similarly situated

Dated: 5/6/2024

SCHEPPACH BAUER PC

By: ______________________

JOHN M. SCHEPPACH
Attorneys for Plaintiff,
CRISTINA BRAVO, on behalf of herself and all others similarly situated

EXHIBIT A

PIMENTEL LAW
EMPLOYMENT LAW • PERSONAL INJURY

30 N Raymond Ave Ste 210 Pasadena, CA 91103 | T (626) 765-6505 F (626) 628-3041 | BTM@PimentelLaw.com

January 7, 2022

Via Electronic Filing

PAGA Administrator
Labor & Workforce Development Agency
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: PAGA Notice

PAGA Administrator:

Please allow this letter to serve as notice pursuant to California Labor Code § 2699, et seq. of Labor Code violations committed by PLM Operations LLC, Steven C. Schiller, and Tropicale Foods, LLC (Respondents) against Danny Lee Wattle and their other current and former employees. The facts and theories that support this claim are as follows:

Mr. Wattle worked as a Maintenance Mechanic for Respondents from December 10, 2017 to the present. Mr. Wattle's job duties include repairs and maintenance of ice cream machines.

Beginning December 10, 2017, Mr. Wattle worked Monday to Friday from 5:00 or 6:00 a.m. to 1:30 p.m. to 2:30 p.m. Occasionally, he would work Saturdays from 5:00 or 6:00 a.m. to 1:30 p.m. to 2:30 p.m. From about June, 2020 to June 2021, Mr. Wattle worked five days per week (the days that he worked varied from week to week), 40 hours per week, from 6:00 a.m. to 2:30 p.m. From about June, 2021 to October, 2021, Mr. Wattle worked Sundays to Thursdays (Fridays and Saturdays off) from 10:00 p.m. to 6:30 a.m. Since October, 2021 to the present, Mr. Wattle has worked Sundays to Thursdays from 9:00 p.m. to 5:30 a.m. His regular rate of pay is $25.75 per hour.

Failure to Reimburse for Business Expenditures

"An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Lab. Code § 2802.

Technicians at Respondents' facilities are required to supply most of their own tools.

The only tools provided by Respondents at the facility are grinders, a drill press, a press machine to press bearings, and some power tools. Otherwise, all tool-using employees employed by Respondents are required to supply their own tools to perform their job duties, because Respondents fail to supply their employees with the necessary tools at their work location. As such, technicians and mechanics are required to incur tool expenditures, which Respondents have not reimbursed.

The value of the tools Mr. Wattle uses on the job for Respondents cost him about $3,000, and cost of his toolbox is about $700. When he first started work with Respondents, Mr. Wattle already owned about $1,000 worth of tools that he could use on the job. In the last four years, he has purchased about $2,000 worth of tools for his job. Every mechanic who works for Respondents must supply their own personal toolbox with their own set of tools.

Respondents' practice of failing to reimburse non-double minimum wage earning employees for the purchase of their hand tools and equipment is violation of Labor Code § 2802.

Failure to Provide Uninterrupted Meal Periods

"An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived." Lab. Code § 512; IWC Wage Order Nos. 1–2001 to 16–2001, § 11; IWC Wage Order No. 17-2001, § 9; 8 Cal Code Regs §§ 11010-11160, § 11; 8 Cal Code Regs § 11170, § 9.

"An employer shall not require an employee to work during a meal ... period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission .... If an employer fails to provide an employee a meal ... period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal ... period is not provided." Lab. Code § 226.7 (b) & (c).

At all relevant times, Respondents' employees regularly worked more than five hours per day, and were thereby entitled to take uninterrupted 30-minute meal periods on each day of work.

At all relevant times herein, Respondents had, and continue to have, a company-wide policy and/or practice of understaffing their locations while simultaneously assigning demanding workloads, which had the combined effect of preventing employees from taking all timely, uninterrupted meal periods to which they were entitled. Therefore, there were no other employees available to relieve employees of their duties so as to allow them to take their meal periods. Mr. Wattle and his co-workers don't always get to take their lunch break by the fifth hour because of understaffing.

Because of the understaffing and demanding workloads, Mr. Wattle is often interrupted during his meal periods by requests from management to perform work. Although Respondents pay meal period premiums at times for missed meal periods, they are paid at their hourly rate as opposed to their regular rate of pay as required by *Ferra v. Loews Hollywood Hotel, LLC*, 280 Cal. Rptr. 3d 783, 798 (2021).

Respondents did not provide employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. On the occasions when employees work 10 hours or more, they are not provided with a second meal period and are not paid any meal period premiums for those missed meal periods. Respondents engaged in a systematic, company-wide practice and/or policy of not paying meal period premiums for employees, regardless of whether they were able to take a compliant meal break, in violation of the applicable IWC Wage Order and Labor Code sections 226.7 and 512 (a). As a result, Respondents failed to provide employees compliant meal periods in violation of California Labor Code §§ 226.7 and 512 and failed to pay the full meal period premiums due.

Failure to Pay Overtime

"Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." Lab. Code § 510; IWC Wage Order Nos. 1–2001 to 16–2001, § 3; IWC Wage Order No. 17-2001, § 4; 8 Cal Code Regs §§ 11010-11160, § 3; 8 Cal Code Regs § 11170, § 4. Labor Code § 1198 makes it unlawful to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code § 1198 requires that "the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

Here, employees were not paid overtime premiums for all of the hours they worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a week. Respondents had, and continue to have, a company-wide policy of failing to implement any policies to authorize and permit employees to take compliant meal periods and, instead, engaged in a practice of discouraging and impeding employees from taking meal periods by assigning them a heavy workload and understaffing their facilities and/or interrupting employees during their meal periods. Therefore, there were no other employees available to relieve employees of their duties so as to allow them to take their meal periods.

As a result of this company-wide understaffing of its facilities and failure to schedule meal periods, employees were not always permitted and authorized to take uninterrupted 30-minute meal periods during shifts to which they were entitled to receive a meal period. As stated above, employees are often interrupted during their unpaid meal periods and are not compensated for the time that they work off the clock during those meal periods. Also employees work at least a 40-hour work week. Thus, the time they work off-the-clock during their meal periods constitutes overtime, for which they are not paid. Claimant contends that employees regularly worked through meal periods, just as he does, and had meal periods interrupted by supervisors and by work to meet expected targets.

Respondents knew or should have known that, as a result of their policies and practices, employees were performing some of their assigned duties off-the-clock and/or during unpaid meal periods, and were suffered or permitted to perform work for which they were not paid. Because employees worked shifts in excess of 8 hours a day or more and 40 hours a week or more, much of this off-the-clock work qualified for overtime premium pay. Therefore, employees were not paid overtime wages for all of the overtime hours they actually worked. To the extent employees worked shifts in excess of 12 hours a day, or in excess of 8 hours on the seventh consecutive day of a work in a workweek, they were not paid double time wages for all overtime hours they actually worked.

Respondent's failure to pay employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code §§ 510 and 1198.

Failure to Furnish Itemized Wage Statements and Maintain Accurate Pay Records

"An employer … shall furnish to his or her employee … an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer … and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee …." Lab. Code § 226 (a).

"Every employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number ... (3) Meal periods, split shift intervals and total daily hours worked shall also be recorded." IWC Wage Order 4-2001, section 7 (A) (1) & (3).

"Every person employing labor in this state shall: (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors. (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments." Lab. Code § 1174 (c) & (d).

"Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174 ... shall be subject to a civil penalty of five hundred dollars ($500)." Cal. Lab. Code § 1174.5.

“A copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.” Cal. Lab. Code § 226 (a).

Claimant is informed and believes that Respondents fails to keep accurate information with respect to each employee including the full name, home address, occupation and social security number, meal periods, split shift intervals and total daily hours worked, the names and addresses of all employees employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.

As detailed above, Respondents failed to pay employees for all hours worked by virtue of uncompensated time worked during missed and/or incomplete meal periods. As a result, their wage statements did not accurately reflect the total hours they worked or the corresponding number of hours worked at each hourly rate. This practice is in violation of Lab. Code § 226 (a).

Because Respondents failed to document and deducted time worked from employees’ wage statements and employment records for meal periods they did not actually receive, Respondents failed to document wages earned and meal period premiums that should have been paid. Thus, Respondents did not furnish wage statements to employees containing the correct amount of gross wages earned in violation of Labor Code § 226 (a) (1), accurate total hours worked in violation of Labor Code § 226 (a) (2), correct amount of net wages earned in violation of Labor Code § 226 (a) (5), or accurate number of hours worked at each corresponding hourly rate in violation of Labor Code § 226 (a) (9).

To the extent that Respondents paid any meal break premium and/or rest break premium payments, they failed to identify such payments on employees' wage statements and employment records, and they otherwise failed to provide information on the wage statements sufficient to identify how many premium payments were paid during each pay period, the specific dates worked giving rise to the premium payments owed, or to determine whether such premium payments adequately and/or accurately compensated employees for any and all premiums owed.

At all relevant times, Respondents failed to keep records of meal period start and stop times for employees in violation of Labor Code § 1198.

Willful Failure to Pay Wages

"If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Lab. Code § 201.

"If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Lab. Code § 202.

"If an employer willfully fails to pay any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced." Lab. Code § 203.

"A willful failure to pay wages within the meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages are due." Cal. Code Regs. tit. 8 § 13520.

As discussed above, Respondents' employees are owed wages for unpaid minimum wage, overtime, meal periods and unreimbursed business expenses. At no time since their separation of employment were these outstanding sums ever paid to them. Further, Respondents knew or should have known that they owed these outstanding sums to employees and intentionally failed and refused to pay these sums immediately upon their termination or within 72 hours of their resignation of employment and continue to refuse to do so. This practice is in violation of Labor Code §§ 201-203.

Failure to Timely Pay Wages

"All wages … earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays … (d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period." Lab. Code § 204.

"In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections ... 204 ... shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld." Lab. Code § 210.

As discussed above, Respondents' employees are owed wages for unpaid minimum wage, overtime, meal periods and unreimbursed business expenses. At no time during their employment were these outstanding sums ever paid to them. Instead, these outstanding sums continued to accumulate every pay period. Therefore, Respondents' employees were not paid all wages earned by the seventh calendar day following the close of their pay periods. This practice is in violation of Labor Code § 204.

Actions under the Private Attorneys General Act (PAGA)

The Labor Code Private Attorneys General Act of 2004 provides that "any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ... may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees." Lab. Code § 2699. Mr. Wattle is entitled to civil penalties of $100 for each aggrieved employee per pay period for the initial violation, and $200 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code §2699 (f), for those Labor Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty.

Based upon the foregoing, Mr. Wattle seeks not only individual remedies under the Labor Code, but also all remedies available under the Private Attorney General Act of 2004, Lab. Code §§ 2698, et seq., including civil penalties on behalf of all aggrieved employees for the above Labor Code violations that Respondents committed against them.

Regards,

Bruce Murray

Bruce T. Murray, Esq.

EXHIBIT B

SCHEPPACH | BAUER PC

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PAGA NOTICE

July 29, 2022

VIA CERTIFIED MAIL	**VIA ONLINE SUBMISSION**
Employer Trinity Personnel, Inc. c/o Elizabeth G. Ramirez Agent For Service of Process 2209 Scenic Drive Modesto, CA 95355 Tropicale Foods, LLC c/o Joseph Lawler Agent For Service Of Process 1237 W. State Street Ontario, CA 91762	Agency State Of California, Labor & Workforce Development Agency http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html

Re: *Cristina Bravo, et al. v. Trinity Personnel, Inc., et al.*
PAGA Notice

Dear Employers and the LWDA:

Cristina Bravo ("Bravo"), on behalf of herself and all other aggrieved non-exempt employees, and through her undersigned representative, hereby provides notice pursuant to the California Private Attorneys General Act of 2004, Labor Code sections 2698 – 2699.5 ("PAGA"), of alleged violations of the California Labor Code committed by Trinity Personnel, Inc. ("Trinity") and Tropicale Foods, LLC, dba La Michoacana ("Tropicale Foods"). Pursuant to the requirements of PAGA, the Labor Code provisions allegedly violated, including the alleged facts and theories in support thereof, are set forth in the paragraphs below. All citations in this PAGA Notice are to the California Labor Code as it is presently constituted. The Labor Code may be amended in one or more respects after the date of this PAGA Notice. This PAGA Notice invokes all applicable forms of tolling, including the tolling provided by Judicial Council Emergency Rule 9.

I. BACKGROUND

Trinity is a staffing company in California. Tropicale Foods produces frozen sorbets and fruit cups, including paletas, Coolstix (also known as bolis), and vasitos (cups). Bravo was placed by Trinity to work at Tropicale Foods in California.

Tropicale Foods was formerly a corporation known as "Tropicale Foods, Inc.," and converted to its LLC form in or about 2019. Any references to Tropicale Foods in this PAGA notice also includes corporate predecessors such as Tropicale Foods, Inc. and any future successors.

Trinity and Tropicale Foods will be collectively referred to herein as the "Company."

II. EMPLOYMENT RELATIONSHIP

Bravo was both an employee of Trinity and Tropicale Foods. Under any applicable standard, Tropicale Foods qualifies as an employer or joint-employer of Bravo and the aggrieved employees. (See, e.g., *Martinez v. Combs* (2010) 49 Cal.4th 35, 64 [setting forth three different standards].)

Among other things, Tropicale Foods had the power to exercise, and exercised, sufficient control over the wages, hours, and/or working conditions of aggrieved employees (Bravo included) to be deemed an employer or joint-employer of the aggrieved employees. Indeed, at Tropicale Foods, at all relevant times, there were no supervisors from Trinity present. Among other things, Tropicale Foods exercised control over the schedule of employees, their required protective gear, when they had to don and doff their protective gear, and when and if they could take meal and rest periods. Tropicale Foods also supervised the day-to-day work activities of aggrieved employees, and caused Labor Code violations herein asserted. Formal discovery is expected to uncover further evidence of the extent of Tropicale Foods' control over the wages, hours, and/or working conditions of aggrieved employees. Tropicale Foods' also suffered and permitted Bravo and the aggrieved employees to work at its facilities (with no supervisors of Trinity present) with knowledge of the underlying illegal circumstances and failed to prevent them from occurring.

Moreover, Tropicale Foods is independently liable under Labor Code section 2810.3 for the wage violations herein asserted, as it regularly uses staffing agencies, including Trinity, to provide workers for activities within the usual course of Tropicale Foods' business, and Tropicale Foods qualifies as a "client employer" under the statute.

III. PAGA GROUP

This PAGA Notice applies to Bravo and all current and former non-exempt employees of the Company who worked at a Tropicale Foods facility in California at any time during the applicable limitations period. Bravo and all of these other current and former employees are referred to herein collectively as the "aggrieved employees."

As an aggrieved employee, Bravo may seek PAGA penalties on behalf of other aggrieved employees that are different from the Labor Code violations she experienced. (*Huff v. Securitas Security Services USA, Inc*. (2018) 23 Cal.App.5th 745, 751 ["PAGA allows an 'aggrieved employee'—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer"]; *Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924, 928-929.)

IV. ALLEGED LABOR CODE VIOLATIONS

Bravo and the other aggrieved employees have experienced a variety of Labor Code violations. On information and belief, these violations continue to persist. They are discussed below in no particular order.

A. Failure To Produce Required Records & Failure To Maintain Them

Bravo, through counsel, requested in writing that Trinity and Tropicale Foods provide her copies of her personnel file, wage statements, time records, records showing her accrual and use of paid sick leave, and documents she signed in connection with her employment. Both Trinity and Tropicale Foods failed to provide any records in response to the requests, let alone provide records in the time required by law. Consequently, Trinity and Tropicale Foods have both violated Labor Code section 1198.5(a),(b), and (c), Labor Code section 226 (b) and (c), Labor Code section 247.5(a), and Labor Code section 432.

Trinity and Tropicale Foods have also failed to maintain at all, for the duration required by law, and/or in a complete and accurate manner, personnel files of aggrieved employees, records of the hours worked by aggrieved employees, copies of their wage statements, records of their hours worked, records of their paid sick days accrued and used, and records of their names and addresses. Consequently, Trinity and Tropicale Foods have both violated Labor Code section 1198.5(c), Labor Code section 226(a), Labor Code section 247.5(a), Labor Code section 1174(c) & (d), and Labor Code section 432.

Among other things, Trinity and Tropicale Foods failed to keep an accurate record of Bravo's name, associated address, and hours worked (violating Labor Code sections 1174(c) and (d) and 247.4(c)). Wage statements (and a W-2) were issued to Bravo with incorrect identifying information and days/hours missing from her pay, violating Labor Code section 226(a). On information and belief, other aggrieved employees experienced the same errors.

Moreover, the business relationship between Trinity and Tropicale Foods does not absolve them from maintaining the records required by law, and in the manner required by law. Tropicale Foods cannot disclaim an obligation to keep records of the employees supplied to it by Trinity (e.g., personnel records under Labor Code section 1198.5) on the mistaken position that it is not an employer – Tropicale Foods is an employer, as, among other things, it exercises sufficient control over the wages, hours, and/or working conditions of employees to be deemed an employer or joint-employer.

B. <u>Off-The-Clock Work</u>

At all material times, Bravo and the other aggrieved employees performed compensable work that was not accounted for in their pay.

Among other things, before starting their shift, aggrieved employees have been required to retrieve and don their Company-required protective gear (including, without limitation, boots, robes/aprons, goggles, and hairnets) before they have clocked in to work. At all material times, the policy at Tropicale Foods and/or its practice has been for aggrieved employees to be donned in their protective gear and ready-to-work before they clock in. Similarly, on information and belief, aggrieved employees had to doff their protective gear off-the-clock and engaged in other forms of off-the-clock compensable work.

The Company's failure to compensate Bravo and other aggrieved employees for their off-the-clock work caused them to not be paid the applicable California minimum wage for compensable work (in violation of, and actionable under, Labor Code §§ 204, 1194, 1194.2, 1197, 1197.1 & 1199), to not be paid their regular hourly rate for all hours worked (in violation of, and actionable under Labor Code §§ 204 & 218), and to not receive proper overtime and/or double-time compensation (in violation of, and actionable under, Labor Code §§ 204, 510 & 1198). The Company's failure to pay Bravo and the other aggrieved employees the overtime, double-time, and/or minimum wages they were due also violates regulatory law. (IWC Wage Orders, § 3 [overtime and double-time requirements], and § 4 [minimum wage requirements].)

C. <u>Meal Period Violations</u>

At all material times, the Company maintained a policy and/or practice that prevented employees, including Bravo, from receiving legally-compliant first and second meal periods. Employees, including Bravo, were routinely denied legally-compliant first and second meal periods. The Company runs continuous production operations, and has not established or provided employees with a sufficient break system in the busy environment in which they work, causing employees to routinely take delayed or shortened meal periods or forgo them altogether. Because of the continuous production operations, employees frequently have to wait to be relieved before they can depart from their positions for a meal period, leading to (among other things) late meal periods.

Under California law, all non-exempt employees who work more than five (5) hours in a shift are entitled to take an unpaid, duty-free meal period of at least thirty (30) minutes. Meal periods must start after no more than five (5) hours of work. (Labor Code, § 512(a); IWC Wage Orders, § 11.) Under California law, all non-exempt employees who work more than ten (10) hours in a shift are entitled to take a second unpaid, duty-free meal period of at least thirty (30) minutes. Second meal periods must start after no more than ten (10) hours of work. (Labor Code, § 512(a); IWC Wage Orders, § 11.) Employers are forbidden from requiring employees to work during a meal period that is mandated by California statutory law or by an IWC Wage Order. (Labor Code, § 226.7(b).) Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a meal period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

Bravo and other aggrieved employees routinely worked the requisite hours to be entitled to a first meal period under California law. The Company was required to provide a first meal period to Bravo and other aggrieved employees in accordance with law, and the Company failed to do so. The Company also failed to provide employees with a legally-compliant second meal period on shifts they work more than ten (10) hours.

The Company did not pay Bravo or other aggrieved employees the one hour of pay for the first and second meal period violations to which they were entitled at the "regular rate" of compensation. The Company's non-provision of compliant meal periods, and the Company's non-payment of the requisite meal period premiums, violated and is actionable under Labor Code § 512(a), Labor Code §§ 226.7(b) & (c), and IWC Wage Order, § 11.

There may be other policies and/or practices that caused missed, short, or late meal periods, which formal discovery may uncover.

D. Rest Break Violations

At all material times, the Company maintained a policy and/or practice that prevented employees, including Bravo, from receiving legally-compliant rest periods. Employees, including Bravo, were routinely denied legally-compliant rest periods.

The Company runs continuous production operations, and has not established or provided employees with a sufficient break system in the busy environment in which they work, causing employees to routinely take delayed or shortened rest periods or forgo them altogether. Because of the continuous production operations, employees frequently have to wait to be relieved before they can depart from their positions for a rest period, leading to (among other things) late rest periods.

Under California law, all non-exempt employees of the Company must be authorized and permitted to take a "net" 10-minute rest break for every four (4) hours worked, or major fraction thereof. (IWC Wage Orders, § 12(A).) More specifically, non-exempt employees must be authorized and permitted to take one 10-minute rest break for shifts from three and one-half (3 ½) hours to six (6) hours in length, two 10-minute rest breaks for shifts of more than six (6) hours up to ten (10) hours in length, three 10-minute rest breaks for shifts of more than ten (10) hours up to fourteen (14) hours in length, and so on. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.)

In terms of rest break timing, the Company must authorize and permit the taking of rest breaks "in the middle of each work period." (IWC Wage Orders, § 12(A); see also *Rodriguez v. E.M.E., Inc.* (2016) 246 Cal.App.4th 1027, 1040 [analyzing the rest break timing rule].) In terms of rest break duration, California law requires employers to provide employees with a "net" rest time of 10 minutes. (IWC Wage Orders, § 12.) An employee's 10 minutes of rest begins the moment the employee can reach an appropriate area of rest and be free from employer control. (*Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal.App.5th 98, 112 [a rest period "begins when the employee reaches an area away from the work station that is appropriate for rest"]; *Augustus v. ABM Security Services, Inc*. (2016) 2 Cal.5th 257, 273 ["California law requires employers to relieve their employee of all work-related duties and employer control during 10-minute rest periods"].)

Under California law, it is illegal for an employer to require an employee to work during a rest period that is mandated by California statutory law or an IWC Wage Order. (Labor Code, § 226.7(b).) Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a rest period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

Bravo and other aggrieved employees routinely worked the requisite hours to be entitled to first, second, and third rest periods under California law. The Company was required to authorize and permit Bravo and other aggrieved employees to take rest periods in accordance with California law, and the Company failed to do so.

The Company did not pay Bravo or other aggrieved employees the one hour of pay for the rest period violations to which they were entitled at the “regular rate” of compensation. The Company’s non-provision of compliant rest periods, and the Company’s non-payment of the requisite rest period premiums, violated and is actionable under Labor Code §§ 226.7(b) and (c) and IWC Wage Order, § 12.

There may be other policies and/or practices that caused employees to experience non-compliant rest periods, which formal discovery may uncover.

E. Wage Statements

Labor Code section 226, subdivision (a), requires that employers (such as the Company) furnish to their employees, semi-monthly or at the time of each payment of wages, an accurate itemized statement in writing showing the “(1) gross wages earned, (2) total hours worked by the employee …, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, …, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, … , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee[.]"

The Company’s wage statements fail to accurately display the information required by Labor Code section 226.

As a result of the off-the-clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or compensable time spent during unpaid meal periods, the Company failed to provide Bravo and other aggrieved employees with accurate wage statements that accurately reflected their total hours worked (violating Labor Code § 226(a)(2)), their gross wages earned (violating Labor Code § 226(a)(1)), their net wages earned (violating Labor Code § 226(a)(5)), and their applicable rates of pay and hours worked at those rates (violating Labor Code § 226(a)(9)).

In addition, the Company's wage statements have failed to specify the correct name and identifying information of the employee and link that correct name and identifying information to the correct corresponding amount of wages that employee earned during the pay period. Among other things, wage statements were issued to Bravo with incorrect identifying information and days/hours missing from her pay, violating Labor Code section 226(a)(1), (2), (5), and (7). On information and belief, other aggrieved employees experienced the same errors.

On information and belief, the Company's wage statements fail to accurately list the correct name and address of the employer, in violation of Labor Code section 226(8). Among other things, the Company's wage statements fail to accurately reference the actual name of the employer entities and/or their correct address.

F. <u>Unlawful Recordkeeping</u>

The Company was required to keep, in a centralized location, three years' worth of accurate records showing the hours worked by, and wages paid, to its employees; however, the Company failed to do so in violation of Labor Code § 1174(d). The off-the-clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or compensable time spent during unpaid meal periods, rendered these records inaccurate and incomplete.

The Company was also required to maintain, for three years at a central location within the state of California, copies of wage statements that comply with Labor Code § 226(a). The Company's wage statements were inaccurate, deficient, or otherwise non-compliant with Labor Code § 226(a) as discussed above. Thus, the Company did not keep the records required by law.

G. <u>Failure To Timely Pay All Wages Due Upon Separation From Employment</u>

Labor Code § 201 and 202 impose a time requirement on employers when it comes to providing the final wages of separated employees. A willful failure to pay all the wages due to a separated employee in the time required by the Labor Code creates additional liability under Labor Code § 203. As a result of the alleged off-the-clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or time spent during unpaid meal periods, the Company did not provide separated employees with final pay that contained all wages due to them under California law. This deficiency in final pay was willful within the meaning of Labor Code § 203. The Company's non-provision of timely and sufficient final pay to separated employees violated, and is actionable under, Labor Code §§ 201, 202, 203, 208, 226(a), 226.3, and 256.

H. Unreimbursed Expenses

Labor Code § 2802 requires employers to fully reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer. The Company failed to pay Bravo and other aggrieved employees for all their work-related expenses. Among other things, Bravo and other aggrieved employees were required to purchase work boots and were not reimbursed for the expense, in violation of and actionable under Labor Code § 2802(a)-(c).

V. Civil Penalties

For all the above-specified Labor Code violations, Bravo, on behalf of herself and all other aggrieved employees, reserves all rights to pursue any and all available civil penalties that California law allows, including the default civil penalties provided by PAGA, and any civil penalties specifically provided by statute for the alleged Labor Code violations (including, without limitation, Labor Code §§ 210, 226.3, 256, 558, 1174.5, 1197.1, and 1199) which are recoverable under PAGA. Bravo, on behalf of herself and all other aggrieved employees, also reserves the right to assert claims for Labor Code violations and associated penalties, and against any other responsible parties (via Labor Code, § 558.1 or otherwise), that are uncovered in the discovery process but which are presently unknown.

Very truly yours,

John M. Scheppach
Scheppach Bauer PC

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 30 N. Raymond Ave., Suite 211, Pasadena, CA 91103.

On May 13, 2024, I served the foregoing document described as **FIRST AMENDED COMPLAINT** on the interested parties in this action as follows:

☒ Electronically to from my email address, VAB@PimentelLaw.com on the persons identified below at the following electronic service address: Nathan.austin@jacksonlewis.com;keelia.lee@jacksonlewis.com; svoigt@fisherphillips.com;akupetz@fisherphillips.com; rgomez@koreyrichardsonlaw.com; jmacek@koreyrichardsonlaw.com;

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☒ STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Viktoria Baklan ______________ *Viktoria Baklan* ______________

Executed on May 13, 2024 at Pasadena, California.